

REMARKS

This responds to the Office Action, dated May 1, 2006. Claims 114, 117 to 136, and 139 to 144 were acted on by the Examiner. Claims 114, 118 to 120, 126, and 129 have been amended. Claim 117 has been canceled. No claims have been added. Accordingly, claims 114, 118 to 136, and 139 to 144 are presented for examination.

An Examiner Interview was held via telephone between the undersigned and Examiners Hope Robinson and Kathleen Kerr on Tuesday, August 1, 2006.

Summary of the Examiner's Action

Objections to the Specification

The specification has been objected to for spelling errors on page 5, line 5, and page 6, line 1, of the application.

Claim Rejections

Claims 114, 118 to 125, 127, 128, and 132 to 133 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Claims 114, 118 to 136, and 139 to 144 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Claims 114, 118 to 136, and 139 to 144 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement.

Claims 117 to 121, 126, and 129 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

Claims 114, and 118 to 120 stand rejected under 35 U.S.C. §102(e), as being anticipated by Alvarez et al. (US Patent No. 6,703,362).

Applicant respectfully traverses the Examiner's rejections.

Discussion

Amendments to the Specification

The specification has been amended to recite lengths of peptides of the present invention. Support for this amendment is found in originally filed claims 4 to 7. The specification has also been amended to correct spelling errors. No new matter has been added to the application.

Amendments to the Claims

Applicant amended claims 114 and 126 to recite the sequences of the claimed peptides. Support for these amendments is found in Table 1 on page 19 of the application.

Claim 114 has been amended to include the recitation of dependent claim 117.

Claims 118 to 120 have been amended to increase clarity.

Claims 121 and 126 have been amended to delete the recitation of "value".

Claim 129 has been amended to recite "wherein said peptide increases the transport of the active agent" in order to increase clarity.

No new matter has been added to the claims.

Discussion of the Section 101 Rejections

Claims 114, 118 to 125, 127, 128, and 132 to 133 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Independent claims 114 and 126, from which all of the other pending claims depend (directly or indirectly), have been amended to recite the D-amino acid sequences for the claimed peptides. As such sequences are not a product of nature, the rejection is obviated. During the Examiner Interview of August 1, 2006, Examiner Robinson indicated that such an amendment would overcome the rejection.

Accordingly, Applicant respectfully requests that the rejection of claims 114, 118 to 125, 127, 128, and 132 to 133 stand rejected under 35 U.S.C. §101 be withdrawn.

Discussion of the Section 112 Rejections

(A) Section 112, first paragraph, (written description)

Claims 114, 118 to 136, and 139 to 144 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner has asserted that Applicant has not demonstrated possession of the full genus of peptides of claim 114.

Independent claim 114 has been amended to incorporate the recitation of claim 117. During the Examiner Interview of August 1, 2006, Examiner Robinson indicated that such an amendment would overcome the written description rejections.

Independent claim 126 has been amended to delete the recitation of "value". During the Examiner Interview of August 1, 2006, Examiner Robinson indicated that such an amendment would overcome the written description rejections.

Accordingly, Applicant respectfully requests that the rejection of claims 114, 118 to 136, and 139 to 144 under 35 U.S.C. §112, first paragraph (written description), be withdrawn.

The arguments applied above for the written description rejections can also be applied to the enablement rejections below.

(B) Section 112, first paragraph (enablement)

Claims 114, 118 to 136, and 139 to 144 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner has asserted that Applicant has not demonstrated possession of the full genus of peptides of claim 114.

Independent claim 114 has been amended to incorporate the recitation of claim 117. During the Examiner Interview of August 1, 2006, Examiner Robinson indicated that such an amendment would overcome the enablement rejections.

Independent claim 126 has been amended to delete the recitation of "value". During the Examiner Interview of August 1, 2006, Examiner Robinson indicated that such an amendment would overcome the enablement rejections.

Accordingly, Applicant respectfully requests that the rejection of claims 114, 118 to 136, and 139 to 144 under 35 U.S.C. §112, first paragraph (enablement), be withdrawn.

(C) Section 112, second paragraph

Claims 118 to 121, 126, and 129 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 118 to 120 have been amended as suggested by the Examiner on page 12 of the office action. Claims 121 and 126 have been amended to delete the recitation of "value". Claim 129 has been amended to recite "wherein said peptide increases the transport of the active agent" in order to increase clarity. During the Examiner Interview of August 1, 2006, Examiner Robinson indicated that such amendments would overcome the indefiniteness rejections.

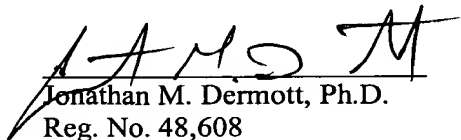
Accordingly, Applicant respectfully requests that the rejection of claims 118 to 121, 126, and 129 under 35 U.S.C. §112, second paragraph, be withdrawn.

Discussion of the Section 102 Rejections

Claims 114, and 118 to 120 stand rejected under 35 U.S.C. §102(e), as being anticipated by Alvarez et al. (U.S. Patent No. 6,703,362). During the Examiner Interview of August 1, 2006, Examiner Robinson indicated that this rejection has been withdrawn.

Applicant submits that the claims as amended define allowable subject matter, and a prompt and favorable action is solicited respectfully.

Respectfully submitted,



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